

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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D.W.M., a minor by Willie Moore, his father,
and Ursula Moore, his mother, D.D.M., a
minor by Willie Moore, his father, and Ursula
Moore, his mother, and WILLIE MOORE and
URSULA MOORE,

Plaintiffs,

- against -

ST. MARY SCHOOL, BIAGIO M. ARPINO,
Principal of St. Mary School, and THE
ROMAN CATHOLIC DIOCESE OF
ROCKVILLE CENTRE, L.M., M.J., and M.M.,
infants by their respective parents and
natural guardians, KERRI LECHTRECKER,
individually and as the mother of L.M., an
infant, and E.G.M. (initials by Order of the
Court), individually and as the father of L.M.,
an infant; “MIKE” JONES and CHRISTINE
JONES, individually and as parents and
natural guardians of M.J. an infant; and
KRZYSZTOF MARS and DOROTA MARS,
individually and as the parents and natural
guardians of M.M., an infant,

Defendants.

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MEMORANDUM AND ORDER

2:18-cv-3099 (DRH) (AKT)

HURLEY, Senior District Judge:

Presently before the Court is the Report and Recommendation of Magistrate Judge A. Kathleen Tomlinson, dated September 9, 2021 (the “R&R” [DE 117]), recommending the Court deny, without prejudice, the Consent Motion for Approval of the Infant Compromise Order. More than fourteen (14) days have passed since service of the R&R, *see* [DE 24], and no objections have been filed.

The R&R concluded that Plaintiffs’ counsel’s “letters did not address what the Court was anticipating in response to the directives issued at [a] November 6, 2020

Status Conference,” which concerned a motion for approval of a proposed infant compromise order, and therefore the motion “cannot move forward.” R&R at 8.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. For that reason, this Court adopts the September 9, 2021 R&R of Judge Tomlinson as if set forth herein. Accordingly,

IT IS HEREBY ORDERED that, within thirty (30) days, Plaintiffs’ counsel and counsel for the Diocese of Rockville Centre shall file a joint letter with the Court stating with specificity the status of the bankruptcy proceeding at issue here which is pending in the United States Bankruptcy Court for the Southern District of New York; and

IT IS FURTHER ORDERED that, within thirty (30) days, Plaintiffs’ counsel and counsel for the Diocese of Rockville Centre shall obtain written documentation from either the assigned Trustee or the Clerk of the Bankruptcy Court – or the assigned Bankruptcy Judge – confirming whether the instant action has been determined to be subject to the automatic stay provision of 11 U.S.C. § 362 and shall provide that information to the Court; and

IT IS FURTHER ORDERED that, within thirty (30) days, Plaintiffs’ counsel and counsel for the infant defendant M.J. shall file a joint letter with the Court responding to the questions previously raised by the judges presiding over this action—Judge Hurley and the now-deceased Judge Tomlinson—with respect to the substance of the infant compromise order. Providing this information does not appear

to impact any stay which may be in place and there is no reason why counsel should not comply with the Court's previous directives to respond. As the Minutes from the November 6, 2020 Conference state: "The concern which Judge Hurley has, and which [Judge Tomlinson] shares, is that the consideration is not adequately described here and does not really explain why the action is being discontinued against this minor. One of the questions Judge Hurley raised and asked [Judge Tomlinson] to put before you is whether we are missing something here. Was there some compensation paid in addition to the limited information stated here?" Counsels' joint letter shall take into account the context of the November 6, 2020 discussion above.

SO ORDERED.

Dated: Central Islip, New York
October 20, 2021

s/ Denis R. Hurley
Denis R. Hurley
United States District Judge